

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1115 OF 2003

Sadashiv Sampat Ahire (since deceased))
through Smt.V.S. Ahire and others).. Petitioners

Versus

Smt.Punjabi Santu Sahane).. Respondent

Mr.M.S. Karnik for the Petitioners.

Mr.P.L. Bhujbal for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 26TH OCTOBER 2005

P.C.:

. This Petition challenges the concurrent findings of fact of both the Courts below. A decree has been passed in view of the default of payment of rent. The trial Court has observed that the Petitioner had received a notice of demand after which he was expected to pay the arrears of rent within one month to the landlord or to deposit the same in Court. This has not been done by the Petitioner. The trial Court has observed that the Petitioner had defaulted in payment of arrears of rent after the notice was issued as well as in making the payment of rent from month to month. The Appellate Court has confirmed the view of the trial Court. The submission of the learned Advocate for the Petitioners is

that the trial Court has passed the decree on the ground of Section 12(3)(b) of the Rent Act while the appeal Court has considered the provisions of Section 12(3)(a). This ground has not been borne out from the judgment of the trial Court. The trial Court has considered the provisions of Section 12(3)(a) of the Rent Act as well which has been confirmed by the Appellate Court. No case has been made out by the Petitioner to disturb the findings of the Courts below. Petition dismissed.

2. Time to vacate the suit premises is extended upto 30th September 2006 on the usual undertaking being given and all the arrears being deposited within eight weeks. Undertaking to be filed within four weeks from today of all the adult members of the family.